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09/765,380

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Fumio Nagashima

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EXAMINER

VO, TED T

ART UNIT

PAPER NUMBER

2191

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/765,380

Applicant(s)

NAGASHIMA ET AL

Examiner

Ted T. Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 March 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 53-55 and 58-60 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 53-55, 58-60 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

#### DETAILED ACTION

1. This action is in communication to the amendment filed on 03/08/2006.  
Claims 59-60 are added.  
Claims 53-55, and 58-60 are pending in the application.

#### *Response to Arguments*

2. Applicants' arguments have been considered.

Claims 53-55, and 58, and newly added claims 59-60 remain rejected by the prior art of record, Maxfield, "Designing With Objects", MacTech.

The amendment also necessitated the new grounds of rejections, Double patterning, and 35 USC 101, presenting in this action.

With respect to the rejection of Maxfield, especially, Applicants argued that the citation, "Fourth, a rectangular box is used to indicate an external event which causes some data to flow through the system in the form of messages", differs from their claims. Applicants argued the difference (recited in their claims: "an object oriented programming component ... comprising: a program code...driving the existing software, including issuing an event of the existing software based on the data related to the existing software, in response to a received message issued in another object to the existing software" so that "the data and the component method together in combination with the existing software server as one object") by contending that Maxfield's diagram 1, the rectangular box SGetFile Dialog, is not part of an object but external to an object (Remarks: P. 7).

Examiner disagrees:

The whole claims' recitation appears **broad and abstract**. The claimed languages such as "driving the existing software", "based on the data related to the existing software", "the data and the component method together in combination with the existing software serve as one object"; **can not be**

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**specific** in order **to differ from a depiction** in the reference. Applicants' arguments also fail to give **adequate explanations** of the claims' functionality. Therefore, the arguments cannot point out the differences.

The recitation and the claimed languages remain broad and abstract; therefore, the cited reference reads the claimed limitations:

\* driving the existing software. For example, "GetExistingFile", the prefix GET has means driving. See the author describes the means driving the existing software: "I will send a (GetExistingFile) message to myFileManager object to get me the source file the user wants to convert (p. 5). Because Applicants do not provide an adequate explanation, the "GetExistingFile" reads driving the existing software as recited in the claim.

\* based on the data related to the existing software. For example, The Diagram 1 shows "read" from the rectangular box. As noted, the "based on" is common. The "read" reads into "based on".

\* the data and the component method together in combination with the existing software serve as one object. The language "serve" appears as a common indication, rather than claiming patentability. This word is abstract; therefore, the combination of the circles in any diagram, such as diagram 1, reads into the abstract and broad languages of the claims.

As regard to the Applicant's indication, "the rectangular box SFGGetFile Dialog, is not part of an object but external to an object". It should be noted this reference's feature is for reading into the claim language "*data related to existing software having a graphical user interface (GUI)*". Therefore, the depiction of "the rectangular box SFGGetFile Dialog", and reasoned by the argument, "an external object", could not be specific as the difference. It should be noted that, the word "read" in diagram 1, associated with "the rectangular box box SFGGetFile Dialog", reads into the broad recitation, "*data related to existing software having a graphical user interface (GUI)*".

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***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

In view of the newly added limitations:

Claims 53-55, and 58-60 are rejected under the judicially created doctrine of obviousness-type double patenting as being respectively unpatentable over claim 1 or 2 of U. S. Patent No. **6,557,165 B1**.

Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claim 1 (or 2) in the US Patent No. 6,557,165 B1 recites

A component builder apparatus, comprising:

a first handler to selectively indicate making of methods and messages;  
a second handler to designate a desired event of existing software;

and

a component builder to build a component which serves as one object in combination with the existing software,

the component including a method in response to an indication of making of the method by said first handler and designation of a first event of the existing software by said second handler, the method firing in response to a first message issued by another object to issue the first event, and the component including a message in response to an indication of making of a second message by said first handler and designation of a second event of the existing software by said second handler, the second message issuing in response to occurrence of the second event, to inform other objects that the second event occurred.

The claim is corresponding to the recitation in this instant claim 53 (and 54, 59) that recites,

data related to existing software having a graphical user interface (GUI),  
(Patent claiming: "a component builder to build a component")

and

as a component method, a program code to control a computer system according to a process of driving the existing software, including issuing an event of the existing software, based upon the data related to the existing software, in response to a received message issued in another object

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to the existing software, wherein the data and the component method together in combination with the existing software serve as one object.  
(Patent claiming: "the component including a method").

The instant Claim 60 has the claimed limitation corresponding to the claim 53, therefore it is being double patented as the same reason as set forth to Claim 53 above.

The claim of the US patent is also corresponding to the further recitation of the instant claim 55:

"one program to control the data processing system according to a process of monitoring the existing software having the graphical user interface for a predetermined event to issue a message to inform another object of the predetermined event of the existing software"  
(Patent claiming: a first handler to selectively /a second handler to designate a desired event of existing software; a component builder to build a component which serves as one object in combination with the existing software)

The instant Claim 58 has the claimed limitation corresponding to the claim 55, therefore it is being double patented as the same reason as set forth to Claim 55 above.

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. The claim 60 is rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter.

As per claim 60: Regarding the limitation in the claim 60,

***An object oriented programming component definition***, this limitation is identified as data/information per se.

Regarding the limitation in the claim 60,

*comprising:*

*system information related to an existing software; and*

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*as a component method, a program code to drive the existing software by controlling an apparatus according to a process comprising:*

*based upon the system information of the existing software, issuing an event of the existing software, issuing a message to inform another object of the event of the existing software, or both, in response to a received message issued by another object to the component method driving the existing software, in response to a predetermined event issued to the existing software, or both,*

*wherein the existing software system information and the component method together in combination with the existing software serve as one object.*

This limitation is descriptive material.

According to the analysis, the claim recites data/information per se. Data information per se does not meet 35 U.S.C 101.

To expedite a complete examination of the instant application the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of application amending these claims to place them within the four statutory categories of invention.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 53-55, and 58-60 are rejected under 35 U.S.C. 102(b) as being anticipated by Maxfield, "Designing With Objects", MacTech, 1991.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per claim 53: Maxfield discloses,

*"A computer readable storage medium storing an object oriented programming component accessible by objects, comprising:*

*data related to existing software having a graphical user interface (GUI) (p. 3: Diagrams 1-2, rectangular boxes, and text "Fourth..."), and*

*as a component method, a program code to control a computer system according to a process of driving the existing software (Diagrams 1-4: The circles in the diagrams such as the "RemoveLFApp" that drives "Existing files"),*

*including issuing an event of the existing software, based upon the data related to the existing software (Diagrams 1-4: The arrows issued from RemoveLFApp, used under names such as GetExistingFile, GetNewFile, OpenFile, Readline), in response to a received message issued in another object to the existing software (Diagrams 1-4, "read", "call", ACK/NAK), wherein the data and the component method together in combination with the existing software serve as one object (Diagrams 1-4: e.g., RemoveLFApp/MyFileManager, RemoveLFApp/MyFileManager/myDataFile, RemoveLFApp/MyFileManager/myDataFile, etc.).*

As per claim 54: Maxfield discloses,

*The computer readable storage according to claim 53, wherein said component further includes a message for informing other objects that the event is issued (See Diagrams, refer to the arcs, and see p.1-2, sec. 1 Messages – e.g. ACK/NAK).*

As per claim 55: Regarding limitation,

*A computer readable storage medium to control a data processing system, comprising:*

*an object oriented programming component accessible by objects, comprising:*

*data related to existing software having a graphical user interface (GUI), and*

*as a component method, a program code to control a computer system according to a process of driving the existing software, including issuing a predetermined event of the existing software, based upon the data related to the existing software, in response to a received message issued in another object to the existing software, wherein the data and the component method together in combination with the existing software serve as one object; and*



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*at least one program to control the data processing system according to a process of monitoring the existing software having the graphical user interface for a predetermined event to issue a message to inform another object of the predetermined event of the existing software.*

Claimed limitation has the functionality corresponding to the functionality of Claim 53. Rejection has the same rationale as set forth in Claim 53.

As per claim 58: Regarding limitation,

*A method of replacing an existing software having a graphical user interface with one object oriented programming object accessible by objects, comprising:  
defining an object oriented programming component accessible by objects by defining:  
data related to existing software having a graphical user interface (GUI), and  
defining as a component method, a program code to control a computer system  
according to a process of driving the existing software, including issuing a predetermined event of the existing software, based upon the data related to the existing software, in response to a received message issued in another object to the existing software, wherein the data and the component method together in combination with the existing software serve as one object; and  
monitoring the existing software having the graphical user interface for a predetermined event to issue a message to inform another object of the predetermined event of the existing software.*

Claimed limitation has the functionality corresponding to the functionality of Claim 53. Rejection has the same rationale as set forth in Claim 53.

As per Claim 59: *A computer readable storage medium according to claim 53, wherein the data related to the existing software comprises GUI system identification information of the existing software (E.g., see the "read" in the Diagrams 1-2, pointing to the Rectangular box).*

As per Claim 60: *An object oriented programming component definition, comprising:*

*system information related to an existing software; and  
as a component method, a program code to drive the existing software by controlling an apparatus according to a process comprising:*

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*based upon the system information of the existing software, issuing an event of the existing software, issuing a message to inform another object of the event of the existing software, or both, in response to a received message issued by another object to the component method driving the existing software, in response to a predetermined event issued to the existing software, or both,*

*wherein the existing software system information and the component method together in combination with the existing software serve as one object.*

Claimed limitation has the functionality corresponding to the functionality of Claim 53. Rejection has the same rationale as set forth in Claim 53.

### **Conclusion**

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

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The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T TV  
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September 29, 2006



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